

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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 AUSTIN SANCTUARY NETWORK,)
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et al.,)
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 Plaintiffs,)
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 v.)
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 DEPARTMENT OF HOMELAND)
 SECURITY, *et al.*,)
)
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 Defendants.)
)

Civil Action No. 20-cv-1686

SUPPLEMENTAL DECLARATION OF FERNANDO PINEIRO

I, Fernando Pineiro, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am the Acting FOIA Officer of the Freedom of Information Act Office (the “ICE FOIA Office”) at U.S. Immigration and Customs Enforcement (“ICE”). The ICE FOIA Office is responsible for processing and responding to all Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and Privacy Act, 5 U.S.C. § 552a, requests received at ICE. I have held this position since July 10, 2019, and I am the ICE official immediately responsible for supervising ICE responses to requests for records under the FOIA, 5 U.S.C. § 552, the Privacy Act, 5 U.S.C. § 552a (the “Privacy Act”), and other applicable records access statutes and regulations. Prior to this position, I was the Deputy FOIA Officer of the ICE FOIA Office from December 29, 2013, to July 9, 2019, and prior to that I was the FOIA Officer for three years at the Office for Civil Rights and Civil Liberties (“CRCL”) at the U.S. Department of Homeland Security (“DHS”).

2. My official duties and responsibilities include the general management, oversight, and supervision of the ICE FOIA Office, which is responsible for the receipt, processing, and response to all FOIA, 5 U.S.C. § 552, and Privacy Act, 5 U.S.C. § 552a, requests received at ICE. In that capacity, I manage and supervise a staff of ICE FOIA Paralegal Specialists, who report to me regarding the processing of FOIA and Privacy Act requests received by ICE. Due to my experience and the nature of my official duties, I am familiar with ICE's procedures for responding to requests for information pursuant to provisions of the FOIA and the Privacy Act.

3. I make this declaration in support of ICE's motion for summary judgement and in opposition to Plaintiffs' cross-motion for summary judgement in the above-captioned action. The statements contained in this declaration are based upon my personal knowledge, my review of records kept by ICE in the ordinary course of business, and information provided to me by other ICE employees in the course of my official duties.

4. In the cross motion for summary judgement, Plaintiffs argue that ICE's use of Exemption 6 and 7(C) was overbroad because ICE applied those exemptions to withhold the personal identifying information (PII) of high-level and policy-making ICE officials. (*See* ECF No. 36-40).

5. As explained in my previous declaration (ECF No. 56 ¶¶ 86-90), ICE withheld the names, e-mail addresses, signatures, initials, and phone numbers of ICE officers and personnel.

6. Plaintiffs state that they "seek only the names, titles, and email domains of high-level government officials and their contacts . . ." (ECF No. 61 at 38).

7. I have personally reviewed Exhibits A.1-A.8, C.2, C.4, D.11, and E.1-E.8 (*see id.* at 36-40; *see also* ECF No. 62 (Plaintiffs' exhibit chart)), to determine whether any of the names contained therein are those of Senior Executive Services

(SES) personnel or otherwise high-level policy-making individuals. The vast majority of the PII that ICE withheld pertain to individuals who are mid-level or low-level management at ICE. However, in several of the documents, ICE withheld information pertaining to individuals who are SES personnel.

8. Accordingly, ICE will reprocess these documents to release the names and titles of ICE SES or high-level policy-making personnel where they are contained in Exhibits A.1-A.8, C.2, C.4, D.11, and E.1-E.8.¹

9. ICE will reproduce any of those documents which contain the names and titles of SES or high-level policy-making personnel to Plaintiffs by March 25, 2022.

10. ICE will continue to withhold the names and other PII of mid-level management and lower-level agency employees based on their individual privacy interest.

11. I understand Plaintiffs also seek the e-mail domains of high-level government officials and their contacts. Upon my review of the challenged documents, all of the domain names that were withheld in Exhibits A.1-A.8, C.2, C.4, D.11, and E.1-E.8, are “ice.dhs.gov”. That is the case both for the SES and high-level policy-making personnel whose names and titles ICE will release as well as the mid-level management and lower-level employees over whom ICE maintains Exemption 6 and 7(C) withholdings.

12. Further, ICE has determined that it will no longer assert the deliberative process privilege over Exhibits D.7, D.8, D.10, D.11, D.12, D.15, and D.22. ICE will reproduce those documents to Plaintiffs by March 25, 2022.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

¹ ICE will not release the e-mail addresses for these individuals.

Dated: March 4, 2022

Fernando Pineiro
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